

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

ANNE MARTINEZ, individually and)
on behalf of all other persons similarly)
situated,)
)
)
Plaintiff,)
)
)
v.) **1:07CV188**
)
)
REGISTERFLY, INC.,)
UNIFIEDNAMES INC., HOSTING)
SERVICES GROUP INC., KEVIN)
MEDINA, in his personal capacity and)
as an agent of RegisterFly, Inc. and as)
an agent of Unifiednames Inc., JOHN)
NARUSZEWICZ, in his capacity as)
an agent of both Unifiednames and)
RegisterFly, ENOM, and ICANN,)
)
Defendants.)

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

This matter came before the Court on June 25, 2008 for an evidentiary hearing on the motions of Plaintiff Anne Martinez for a default judgment against Defendants Hosting Services Group, Inc., Kevin Medina, Registerfly, Inc., and UnifiedNames, Inc. (Docket Nos. 62-65.) The matter was set on for a hearing in order to provide Plaintiff with an opportunity to show an entitlement to specific damages since the Complaint in this action was not for a “sum certain” in damages. *See generally*, Fed. R. Civ. P. 55.

At the hearing, on the basis of the affidavit of Anne Martinez, Plaintiff established actual damages in the amount of \$13,795.80 under each of the causes of action directed toward the defaulting Defendants. The Court finds that damages should be trebled against Defendants Medina and Registerfly, Inc. under Plaintiff's claims pursuant to N.C. Gen. Stat. § 75-1.1 and 18 U.S.C. § 1964(c), and against Defendants Hosting Services Group, Inc. and UnifiedNames, Inc. under Plaintiff's claims pursuant to 18 U.S.C. § 1964(c). Plaintiff is entitled to an award of attorney's fees against each defaulting Defendant. *See* N.C. Gen. Stat. § 75-16.1 and 18 U.S.C. § 1964(c). The Court finds, on the basis of the affidavit of attorney James M.C. Green, that fees in the amount of \$5,000.00 (excluding estimated post-judgment efforts) and costs in the amount of \$4,648.86 should be awarded, for a total of \$9,648.86 in fees and costs.

The Court observes that Plaintiff has withdrawn any claim in this action for injunctive relief. On review of the pleadings, the Court finds that Plaintiff's causes of action are legally sufficient to state actionable claims and support entry of a default judgment.

Accordingly, and for reasons set forth above,

IT IS RECOMMENDED that the Order of Reference entered in this case on November 9, 2007 be withdrawn in view of the fact that *all* parties to this action (*i.e.*, the defaulting parties) have not appeared and joined in consenting to the trial jurisdiction of the Magistrate Judge.

IT IS FURTHER RECOMMENDED that a default judgment now be entered in favor of Plaintiff Anne Martinez, individually, against defaulting Defendants Hosting Services Group, Inc., Kevin Medina, Registerfly, Inc., and UnifiedNames, Inc., jointly and severally, in the amount of \$41,387.40 (trebled damages). Attorney's fees should be awarded to the Dummit Law Firm in the amount of \$9,648.56 (fees and costs), payable by the defaulting Defendants, jointly and severally. Contemporaneously with the entry of such a default judgment, this action should be dismissed.

/s/ P. Trevor Sharp

United States Magistrate Judge

Date: July 30, 2008